

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/005135

International filing date (day/month/year)
09.12.2004

Priority date (day/month/year)
12.12.2003

International Patent Classification (IPC) or both national classification and IPC
G01N35/00, B25J11/00

Applicant
GLAXO GROUP LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/005135

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 63-66

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 63-66
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/005135

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-26,28-47,49-50,52-53,55-58,60-62
	No: Claims	1,27,48,51,54,59
Inventive step (IS)	Yes: Claims	
	No: Claims	2-26,28-47,49-50,52-53,55-58,60-62
Industrial applicability (IA)	Yes: Claims	1-62
	No: Claims	

2. Citations and explanations

see separate sheet

1. Reference is made to the following documents:
D1: WO 98/01760 A (BECKMAN INSTRUMENTS, INC; PANG, WING, S; GROSS, MARK; TANUMIHARDJA, HE) 15 January 1998 (1998-01-15)
D2: US 2003/215360 A1 (RUDDOCK TREVOR) 20 November 2003 (2003-11-20)
D3: US-B1-6 539 334 (SAWAFTA REYAD I) 25 March 2003 (2003-03-25)

Objections pursuant to Article 6 PCT

2. Claims 1, 48 and 54 have been drafted as separate independent apparatus claims and claims 27, 51 and 59 have been drafted as separate independent method claims.

These independent claims appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter.

Moreover, lack of clarity of the claims as whole arises, since the plurality of independent claims makes it difficult to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection. That is, objection to lack of clarity and inconciseness arises under Article 6 PCT.

In view of the above, one independent claim, followed by claims depending thereon, would have been sufficient to achieve the same scope of protection.

Objections pursuant to Article 33(2) PCT (Novelty)

3. Document D1 discloses an object handling system (10) for handling or operating on objects placed on supporting carriers placed on carrier holders a support platform, comprising
 - an analysis station (2000),

- an object handler (700) with a positioning mechanism providing positioning in the region above the support platform,
- a tool assembly (714) attached to the positioning mechanism and comprising a holding tool (716,717) and a sensor tool (718) for identifying an object carrier being supported on a carrier holder which is utilized to hold an object and transfer it between the carrier holders and the analysis station; and
- a control unit for controlling the operation of the system.

See Figures 1, 13A-D; page 4, line 24 - page 7, line 2; page 11, line 2 - page 12, line 9; and page 31, line 16 - page 32, line 8.

Accordingly, the objections above with respect to clarity and conciseness notwithstanding, the subject-matter of claims 1, 48 and 54 is not new in the sense of Article 33(2) PCT.

4. Claims 27, 51 and 59 define a method analogue to the apparatus of claims 1, 48 and 54. Document D1 also discloses a method analogue to the apparatus. Therefore, the objections under item 3 apply *mutatis mutandis* to the subject-matter of claims 27, 51 and 59 which, accordingly and the objections above with respect to clarity and conciseness notwithstanding, is not new in the sense of Article 33(2) PCT.

Objections pursuant to Article 33(3) (Inventive Step)

5. The objections above with respect to clarity and conciseness notwithstanding, dependent claims 2-26, 49-50, and 55-58; and 28-47, 52-53 and 60-62 would appear to define minor modifications to the apparatus or method respectively. These modifications are either well known in the art or merely workshop modifications. Hence, the person skilled in the art would carry them out in accordance with the circumstances without having to exercise any inventive skill whatsoever. Accordingly, the subject-matter of the above-mentioned claims is either not new in the sense of Article 33(2) PCT or does not contain an inventive step in the sense of Article 33(3) PCT.

Observations on the form and content of the international application

6. In addition to the objections above, the following should be noted.
- 6.1 Independent apparatus claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 6.2 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 - D3 is not mentioned in the description, nor are these documents identified therein.
- 6.3 The term "hereby incorporated herein by reference" in the description (see page 1) should be deleted. Entire references cannot be incorporated into the specification; either their content is essential for the understanding of the application, in which case a brief summary or the relevant part expresses verbis should be given, or they are background art, in which case a simple reference suffices (Guideline C-II, 4.18).